

REMARKS

In the Office Action dated June 23, 2003, claims 2, 3, 8, 10, 11, 12, and 19 were objected to; claims 2, 3, 7, 21-24, 30, 35, and 38-40 were rejected under 35 U.S.C. § 102 over EP Patent 0695853 A2 (Zeller); and claims 19, 25-28 and 31 were rejected under § 103 over Zeller in view of U.S. Patent No. 6,532,839 (Kluth).

Applicant acknowledges the allowance of claims 8, 10-13, and 16-18, and the indication that claims 4-6, 29, 32-34, 36 and 37 would be allowable if rewritten in independent form. Claim 5 has been so amended, and thus is now in condition for allowance.

OBJECTIONS

In response to the Examiner's objections, the term "fluid barrier reservoir" has been replaced with "reservoir." This amendment does not change the scope of the claims. With respect to the objection of claim 19, Applicant notes that the term "reservoir fluid" in line 8 is correctly used.

REJECTIONS UNDER 35 U.S.C. §§ 102 AND 103

Independent claim 2 has been cancelled to render the rejection of that claim moot. Claim 3 has been amended from dependent form to independent form, with the scope of the claim remaining unchanged.

Contrary to the assertion in the Office Action, Zeller does not disclose a flow control element disposed within a second tubing between a first tubing and a reservoir, with the flow control element configured to be actuated between a first state allowing fluid flow in the second tubing in any direction, and a second state restricting fluid flow in the second tubing from the reservoir to the first tubing. The Office Action pointed to the capillary 104 disclosed in Zeller as being the flow control element recited in claim 3. The capillary 104 is in the form of a tube that is spirally wound around an upper section 122. Zeller, 7:1-2. There is no indication whatsoever of any flow control element in the capillary of Zeller that can be

actuated between a first state and a second state. The capillary 104 is merely a conduit, with no flow control element provided in the conduit.

Therefore, Zeller does not anticipate claim 3.

Claim 7 has been amended from dependent form to independent form, with the scope of the claim remaining unchanged. Zeller does not disclose a fluid volume measuring device configured to measure the volume of fluid passed into first and second tubings by a fluid motive apparatus. In fact, the Office Action does not point to any component within Zeller that corresponds to the fluid volume measuring device recited in claim 7.

Claim 21 has been amended from dependent form to independent form, with the scope of claim 21 remaining unchanged. Zeller does not disclose a cable and sensor that are adapted to be moved from a first location to a second location *through a first tubing*. The Office Action pointed to chamber 26 as being the first tubing recited in the claim. However, there is no indication whatsoever within Zeller that the cable and sensor are adapted to be moved from a first location to a second location through the chamber 26 of Zeller.

Furthermore, with respect to dependent claim 22, which depends from claim 21, there is no indication whatsoever in Zeller that the cable and sensor are adapted to be moved by fluid flow in the chamber 26.

Applicant further submits that independent claim 30 is also not anticipated by Zeller. Zeller does not disclose a conduit that contains a communication cable and a sensor, with the cable and sensor adapted to be deployed through the conduit from a first location to a second location. Claim 30 further recites a barrier fluid assembly containing a first barrier fluid, the first barrier fluid to isolate well fluids from fluid in the conduit. With respect to claim 30, the Office Action pointed to the wellbore 4 of Zeller as being the conduit. The Office Action pointed to element 22 of Zeller as being the barrier fluid assembly. Element 22 *cannot* possibly isolate well fluids from the wellbore 4.

Independent claim 39 is similarly allowable over Zeller, as Zeller fails to disclose deploying a cable and a sensor through a conduit extending into the well from a first location to a second location in the conduit, in combination with providing a barrier fluid assembly containing a barrier fluid to isolate well fluids from fluid in the conduit with the barrier fluid.

Independent claim 19 was rejected as being obvious over the hypothetical combination of Zeller and Kluth. Applicant respectfully submits that the obviousness rejection is defective. As conceded in the Office Action, Zeller fails to teach an optical fiber cable. However, reliance was made on Kluth as teaching the missing element. Applicant respectfully submits that the asserted combination of Zeller and Kluth is improper, as there is no suggestion or motivation to combine the teachings of these two references. The combination of references is based entirely on impermissible hindsight. Zeller disclose a conventional downhole gauge system that uses a wireline or drill string to carry the gauge to a downhole location. Zeller, 5:20-26. The gauge used in Zeller includes a transducer section 12, a controller/power converter and control/memory section 14, and a power source/battery section 16. Zeller, 5:50-53. Thus, Zeller contemplates a downhole gauge that contains a local power source and memory to store data collected by the gauge. There is no suggestion whatsoever of any need for a fiber optic cable as recited in claim 19. In fact, a significant modification would have to be made to the Zeller system to incorporate the fiber optic cable taught by Kluth. The Examiner has not explained how the fiber optic cable in Kluth can be incorporated into Zeller--there simply does not exist any motivation or suggestion to incorporate the fiber optic cable of Kluth into the Zeller system.

Therefore, a *prima facie* obviousness rejection has not been established with respect to independent claim 19.


Claim 25 has been amended from dependent form to independent form, with the scope of claim 25 remaining unchanged. Claim 25 was rejected as being obvious over the hypothetical combination of Zeller and Kluth. As discussed above, this combination is improper, and thus, the obviousness rejection should be withdrawn.

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In view of the foregoing, all claims are in condition for allowance, which action is respectfully requested. The Commissioner is authorized to charge any additional fees, including extension of time fees, and/or credit any overpayment to Deposit Account No. 50-1673 (9020).

Respectfully submitted,

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